

SENATE BILL No. 534

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-18-8; IC 4-15; IC 5-16-6-1; IC 7.1-3; IC 8-23-2-3; IC 12-30-3-14; IC 20-5.5-2-2; IC 20-12-14.5-3; IC 21-2-1-3; IC 22-9; IC 22-9.5; IC 27-7-12-7; IC 33-4; IC 35-46-2; IC 36-9-4-37.

Synopsis: Discrimination based on sexual orientation. Extends anti-discrimination statutes to include prohibiting discrimination based on sexual orientation throughout the Indiana Code.

Effective: July 1, 2003.

Howard

January 23, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 534

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-18-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 8. A political subdivision (as
3 defined in IC 36-1-2-13), a not-for-profit organization, or a for profit
4 organization may submit an application to the corporation to obtain a
5 grant, loan, or loan guarantee to establish a small business incubator.
6 The application must:
- 7 (1) describe the facility that is to be converted to an incubator;
 - 8 (2) specify the cost of the conversion;
 - 9 (3) demonstrate the ability of the applicant to directly provide or
10 arrange for the provision of business development services
11 (including financial consulting assistance, management and
12 marketing assistance, and physical services) for tenants of the
13 incubator;
 - 14 (4) demonstrate a potential for sustained use of the incubator by
15 eligible tenants, through a market study or other means;
 - 16 (5) demonstrate the ability of the applicant to operate the
17 incubator in accordance with section 20 of this chapter;



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(6) state that the applicant will not discriminate against an employee or applicant for employment on the basis of race, religion, color, national origin, sex, **sexual orientation**, or age; and

(7) include any other information required by the corporation.

SECTION 2. IC 4-15-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. Any regular employee may file a complaint if his status of employment is involuntarily changed or if he deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in his status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within such time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and his immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, such complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the Appointing Authority.

Step III: The Appointing Authority or his designated representative shall hold such hearings and conduct such investigations as he deems necessary to render a decision and shall make such decision in writing within ten (10) consecutive working days.

Should the appointing authority or his designated representative not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or his designee shall review the complaint and render a decision within fifteen (15) calendar days. If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission no later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or his designee. After submission of the appeal, the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after

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1 the date of the hearing on the appeal. If the commission finds that the
2 action against the employee was taken on the basis of politics, religion,
3 sex, age, race, **sexual orientation**, or because of membership in an
4 employee organization, the employee shall be reinstated to his position
5 without loss of pay. In all other cases the appointing authority shall
6 follow the recommendation of the commission which may include
7 reinstatement and payment of salary or wages lost by the employee
8 which may be mitigated by any wages the employee earned from other
9 employment during a dismissed or suspended period.

10 If the recommendation of the commission is not agreeable to the
11 employee, the employee, within fifteen (15) calendar days from receipt
12 of the commission recommendation, may elect to submit the complaint
13 to arbitration. The cost of arbitration shall be shared equally by the
14 employee and the state of Indiana. The commissioner of labor shall
15 prepare a list of three (3) impartial individuals trained in labor
16 relations, and from this list each party shall strike one (1) name. The
17 remaining arbitrator shall consider the issues which were presented to
18 the commission and shall afford the parties a public hearing with the
19 right to be represented and to present evidence. The arbitrator's
20 findings and recommendations shall be binding on both parties and
21 shall immediately be instituted by the commission.

22 SECTION 3. IC 4-15-3-2 IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2003]: Sec. 2. Appointments to, and promotions
24 in engineering positions in the engineering service of any department,
25 commission, bureau, board or division of the state of Indiana shall be
26 made only according to merit and fitness. No person in the engineering
27 service of any department, commission, bureau, board or division of
28 the state of Indiana or seeking admission thereto, shall be appointed,
29 promoted, or in any way favored or discriminated against because of
30 his race, religion, color, sex, **sexual orientation**, national origin or
31 ancestry.

32 SECTION 4. IC 4-15-12-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The state is
34 committed to an affirmative action policy that includes the
35 establishment of employment policies and conditions that ensure the
36 elimination of underutilization of qualified members of affected classes
37 and the elimination of discrimination on the basis of race or color,
38 religion, national origin or ancestry, age, sex, **sexual orientation**, and
39 disability.

40 SECTION 5. IC 5-16-6-1 IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2003]: Sec. 1. Every contract for or on behalf
42 of the state of Indiana or any of the municipal corporations thereof, for

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the construction, alteration, or repair of any public building or public work in the state of Indiana shall contain provisions by which the contractor agrees:

(a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, **sexual orientation**, national origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, **sexual orientation**, national origin or ancestry;

(c) That there may be deducted from the amount payable to the contractor by the state of Indiana or by any municipal corporation thereof, under this contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and

(d) That this contract may be cancelled or terminated by the state of Indiana or by any municipal corporation thereof, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

SECTION 6. IC 7.1-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Notwithstanding any other law, a beer retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A beer retailer may call the annual fee described in subsection (a) a membership fee.

(c) A beer retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a beer retailer to discriminate among persons on the basis of race, sex, age, **sexual orientation**, or religion when selecting persons to have access to the retailer's facilities and services.

SECTION 7. IC 7.1-3-9-9.5 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a)
 2 Notwithstanding any other law, a liquor retailer may limit sales to the
 3 following:

4 (1) Persons that the retailer selects to have access to the retailer's
 5 facilities and services in return for payment of an annual fee to the
 6 retailer.

7 (2) Guests of a person described in subdivision (1).

8 (b) A liquor retailer may call the annual fee described in subsection
 9 (a) a membership fee.

10 (c) A liquor retailer may call the retailer's premises a club. However,
 11 the premises is not a club within the meaning of IC 7.1-3-20-1.

12 (d) This section does not allow a liquor retailer to discriminate
 13 among persons on the basis of race, sex, **sexual orientation**, age, or
 14 religion when selecting persons to have access to the retailer's facilities
 15 and services.

16 SECTION 8. IC 7.1-3-14-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Notwithstanding
 18 any other law, a wine retailer may limit sales to the following:

19 (1) Persons that the retailer selects to have access to the retailer's
 20 facilities and services in return for payment of an annual fee to the
 21 retailer.

22 (2) Guests of a person described in subdivision (1).

23 (b) A wine retailer may call the annual fee described in subsection
 24 (a) a membership fee.

25 (c) A wine retailer may call the retailer's premises a club. However,
 26 the premises is not a club within the meaning of IC 7.1-3-20-1.

27 (d) This section does not allow a wine retailer to discriminate
 28 among persons on the basis of race, sex, **sexual orientation**, age, or
 29 religion when selecting persons to have access to the retailer's facilities
 30 and services.

31 SECTION 9. IC 8-23-2-3 IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The department may hire
 33 qualified individuals to carry out its responsibilities subject to the
 34 budget agency's approval under IC 4-12-1-13 and may prescribe their
 35 terms and conditions of employment subject to this section.

36 (b) All employees of the department whose duties require
 37 specialized knowledge or skill, acquired by professional or technical
 38 education, training, and experience:

39 (1) shall be employed solely on the basis of ability, taking into
 40 account their qualifications to perform the duties of their
 41 positions;

42 (2) shall be employed regardless of political affiliation;

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(3) may not be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of their political affiliation, race, religion, color, sex, **sexual orientation**, national origin, or ancestry;

(4) are ineligible to hold, or be a candidate for, elected office (as defined in IC 3-5-2-17) while employed by the department, except as provided in subsection (h);

(5) may not solicit or receive political contributions;

(6) may not be required to make contributions for or participate in political activities;

(7) shall be employed on a six (6) month probationary period, with a written evaluation prepared after five (5) months of service by their immediate supervisor for the commissioner to determine if employment should continue beyond the probationary period; and

(8) shall be evaluated annually in writing by their immediate supervisor for the purpose of advising the commissioner as to whether the employees should remain in their positions.

(c) Highway district managers are and subdistrict superintendents are not subject to subsection (b). A person may not be employed by the department as a highway subdistrict superintendent unless the person has received training or experience in maintaining or constructing roads, highways, and bridges. Highway subdistrict superintendents shall devote full time to the performance of their duties. Highway district managers serve at the pleasure of the commissioner but upon reassignment shall be retained in a position of equal or higher job classification within the department. However, the employee may elect to serve in the next lower job classification within the same district.

(d) The appointment or dismissal of the chief highway engineer for the department is at the discretion of the commissioner. The chief highway engineer must be a registered professional engineer and must be a graduate civil engineer or have at least ten (10) years of experience in highway engineering.

(e) All employees of the department are subject to IC 4-15-1.8 and the rules that implement IC 4-15-1.8.

(f) Subject to this section:

(1) all employees of the department are subject to demotion, discipline, dismissal, or transfer at the discretion of the commissioner; and

(2) cause for demotion, dismissal, discipline, or transfer may include but is not limited to failure to satisfactorily effectuate the department's transportation plan and work programs.

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(g) The commissioner may:

(1) require an employee or agent of the department to execute and furnish a bond conditioned upon the faithful discharge and performance of the duties of the employee or agent and the accurate accounting of public funds that come into the employee's or agent's control or custody; and

(2) prescribe an oath of employment for an employee or agent of the department.

(h) Employees described in subsection (b) may:

(1) be candidates for:

(A) school board office (as defined in IC 3-5-2-45); or

(B) precinct committeeman or state convention delegate;

and serve in that office if elected; and

(2) be appointed to an office described in subdivision (1) and serve in that office if appointed.

SECTION 10. IC 12-30-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Admission of all patients and residents to the county home must be on a voluntary basis and without regard to race, religion, color, sex, **sexual orientation**, national origin, or ancestry.

(b) Recipients of old age assistance and blind assistance shall be admitted to the county home on the same basis and for the same charge as other patients and residents in the county home. There may be no discrimination in the care and treatment of patients and residents of the county home because of the source of the money for the support and care of the patients and residents.

SECTION 11. IC 16-23-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) The hospital may not discriminate among patients due to the following:

(1) Race, color, **sexual orientation**, or sex.

(2) Occupational, economic, or social status.

(3) Political or religious belief or the lack of political or religious belief.

(b) The hospital must also be open to all licensed physicians of the county and the patients of licensed physicians on equal terms and under uniform rules.

SECTION 12. IC 20-5.5-2-2, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A charter school is subject to all federal and state laws and constitutional provisions that prohibit discrimination on the basis of the following:

(1) Disability.

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- (2) Race.
- (3) Color.
- (4) Gender.
- (5) National origin.
- (6) Religion.
- (7) Ancestry.

(8) Sexual orientation.

SECTION 13. IC 20-8.1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Policy. It is the public policy of the state of Indiana:

(a) To provide, furnish and make available equal, non-segregated, non-discriminatory educational opportunities and facilities for all regardless of race, creed, national origin, color ~~or~~ sex, **or sexual orientation**;

(b) To provide and furnish public schools and common schools equally open to all and prohibited and denied to none because of race, creed, color or national origin;

(c) To reaffirm the principles of our bill of rights, civil rights and our Constitution;

(d) To provide for the state of Indiana and its citizens a uniform democratic system of public and common school education;

(e) To abolish, eliminate and prohibit segregated and separate schools or school districts on the basis of race, creed or color; and

(f) To eliminate and prohibit segregation, separation and discrimination on the basis of race, color or creed in the public kindergartens, common schools, public schools, vocational schools, colleges and universities of the state.

SECTION 14. IC 20-12-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A student who applies for admission to the academy must:

- (1) be eligible to attend a public school in Indiana;
- (2) demonstrate exceptional intellectual ability; and
- (3) demonstrate a commitment to scholarship.

(b) A student shall be admitted without regard to sex, race, religion, creed, national origin, **sexual orientation**, or household income.

SECTION 15. IC 20-12-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The commission shall:

- (1) prepare and supervise the issuance of public information concerning this chapter;
- (2) prescribe the form and regulate the submission of applications for higher education awards;



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(3) conduct such conferences and interviews with applicants as may be appropriate;

(4) determine the eligibility of applicants;

(5) select qualified applicants;

(6) determine the respective amounts of, and award, the appropriate higher education awards;

(7) determine eligibility for, and award, annual renewals of higher education awards;

(8) act as the designated state agency for participation in any federal program for reinsurance of student loans; and

(9) adopt rules, under IC 4-22-2, to develop standards that govern the denial of assistance to higher education award applicants and recipients under section 7.6 of this chapter.

(b) The commission may:

(1) make such rules as may be necessary to carry out its functions under this chapter; and

(2) appoint advisory boards as it considers necessary.

(c) The commission shall exercise its functions without regard to an applicant's race, creed, sex, **sexual orientation**, color, national origin, or ancestry.

SECTION 16. IC 20-12-21-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) In addition to the duties described in section 5(a) of this chapter, the commission shall do the following:

(1) Prepare and supervise the issuance of public information concerning all of the commission's programs.

(2) Prescribe the form and regulate the submission of applications for all of the commission's programs.

(3) Determine the amounts of grants and scholarships.

(4) Determine eligibility for grants and scholarships.

(5) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds in the manner prescribed by federal law.

(b) In addition to the powers described in section 5(b) of this chapter, the commission may do the following:

(1) Accept gifts, grants, devises, or bequests for the purpose of providing grants, awards, scholarships, loans, or other forms of financial aid to students attending approved institutions of higher learning.

(2) Enter into contracts, subject to IC 4-13-2, that the commission determines are necessary to carry out the commission's functions.

(3) Provide administrative or technical assistance to other

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governmental or nongovernmental entities if the provision of this assistance will increase the number and value of grants, awards, scholarships, or loans available to students attending approved institutions of higher learning.

(c) When the commission receives an offer of a gift, grant, devise, or bequest under subsection (b)(1), the commission may accept stipulations on the use of the donated funds. In this case, sections 7(d) and 17 of this chapter do not apply. Before accepting a gift, grant, devise, or bequest, the commission shall determine that the purposes for which a donor proposes to provide funds are:

- (1) lawful;
- (2) in the state's best interests; and
- (3) generally consistent with the commission's programs and purposes.

Whenever the commission agrees to stipulations on the use of donated funds under this subsection, the commission and the donor shall, subject to approval by the state budget agency and the governor or the governor's designee, execute an agreement.

(d) Whenever the commission agrees to provide administrative or technical assistance under subsection (b)(3), the commission and the party to whom the assistance is to be provided shall execute an agreement specifying:

- (1) the assistance that is to be provided; and
- (2) the charges, if any, that are to be assessed by the commission for providing this assistance.

The commission may waive charges for administrative or technical assistance under this subsection if the commission determines that a waiver is in the best interest of the state. Agreements to provide assistance under this subsection must be approved by the budget agency and the governor or the governor's designee.

(e) The commission shall exercise its functions without regard to an applicant's race, creed, sex, **sexual orientation**, color, national origin, or ancestry.

SECTION 17. IC 21-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The trustee, with the advice and consent of the township board, shall use such "seminary lands school account" for the following educational purposes:

- (1) Each year the trustee shall pay to the parent or legal guardian of any child, whose residence is within said township, initial cost for the rental of textbooks used in any elementary or secondary school which has been duly accredited by the state of Indiana. Such reimbursement for the rental of school books shall be for the

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1 initial yearly rental charge only, and books subsequently lost or
2 destroyed shall not be paid for from this account.

3 (2) Students who are residents of said township for the last two
4 (2) years of their secondary education and who still reside within
5 said township shall receive financial assistance in an amount not
6 to exceed an amount determined by the trustee and the township
7 board during an annual review of higher education fees and
8 tuition costs of post-high school education at any accredited
9 college, university, junior college, or vocational or trade school.
10 Amounts to be paid to each eligible student shall be set annually
11 following this review. The amount so paid each year shall be
12 equitable for every eligible student without regard to race,
13 religion, creed, sex, **sexual orientation**, disability, or national
14 origin and must be based on the number of students and the
15 amount of funds available each year.

16 (3) A person who has been a permanent resident of the township
17 continuously for at least two (2) years and who needs educational
18 assistance for job training or retraining may apply to the trustee
19 of the township for financial assistance. The trustee and the
20 township board shall review each application and make assistance
21 available according to the need of each applicant and the
22 availability of funds.

23 (4) If all the available funds are not used in any one (1) year, said
24 unused funds shall be retained in said account by the trustee for
25 use in succeeding years.

26 (b) The bond required by law for the trustee shall be increased by an
27 amount equal to the sum of the seminary township school fund and the
28 average annual rental income from said seminary lands.

29 (c) All funds and accounts provided in this chapter and the
30 accumulation thereof shall be periodically audited and examined in the
31 same manner provided by law for public money.

32 (d) All expenditures and payments made under this chapter shall be
33 made only after necessary expenditures for the protection and
34 maintenance of the seminary land in good and safe condition are first
35 made from the annual rental income.

36 SECTION 18. IC 22-9-1-2 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) It is the public
38 policy of the state to provide all of its citizens equal opportunity for
39 education, employment, access to public conveniences and
40 accommodations, and acquisition through purchase or rental of real
41 property, including but not limited to housing, and to eliminate
42 segregation or separation based solely on race, religion, color, sex,

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1 **sexual orientation**, disability, national origin or ancestry, since such
 2 segregation is an impediment to equal opportunity. Equal education
 3 and employment opportunities and equal access to and use of public
 4 accommodations and equal opportunity for acquisition of real property
 5 are hereby declared to be civil rights.

6 (b) The practice of denying these rights to properly qualified
 7 persons by reason of the race, religion, color, sex, **sexual orientation**,
 8 disability, national origin, or ancestry of such person is contrary to the
 9 principles of freedom and equality of opportunity and is a burden to the
 10 objectives of the public policy of this state and shall be considered as
 11 discriminatory practices. The promotion of equal opportunity without
 12 regard to race, religion, color, sex, **sexual orientation**, disability,
 13 national origin, or ancestry through reasonable methods is the purpose
 14 of this chapter.

15 (c) It is also the public policy of this state to protect employers,
 16 labor organizations, employment agencies, property owners, real estate
 17 brokers, builders, and lending institutions from unfounded charges of
 18 discrimination.

19 (d) It is hereby declared to be contrary to the public policy of the
 20 state and an unlawful practice for any person, for profit, to induce or
 21 attempt to induce any person to sell or rent any dwelling by
 22 representations regarding the entry or prospective entry into the
 23 neighborhood of a person or persons of a particular race, religion,
 24 color, sex, **sexual orientation**, disability, national origin, or ancestry.

25 (e) The general assembly recognizes that on February 16, 1972,
 26 there are institutions of learning in Indiana presently and traditionally
 27 following the practice of limiting admission of students to males or to
 28 females. It is further recognized that it would be unreasonable to
 29 impose upon these institutions the expense of remodeling facilities to
 30 accommodate students of both sexes, and that educational facilities of
 31 similar quality and type are available in coeducational institutions for
 32 those students desiring such facilities. It is further recognized that this
 33 chapter is susceptible of interpretation to prevent these institutions
 34 from continuing their traditional policies, a result not intended by the
 35 general assembly. Therefore, the amendment effected by Acts 1972,
 36 P.L.176, is desirable to permit the continuation of the policies
 37 described.

38 (f) This chapter shall be construed broadly to effectuate its purpose.

39 SECTION 19. IC 22-9-1-3 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this
 41 chapter:

42 (a) "Person" means one (1) or more individuals, partnerships,

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1 associations, organizations, limited liability companies, corporations,
 2 labor organizations, cooperatives, legal representatives, trustees,
 3 trustees in bankruptcy, receivers, and other organized groups of
 4 persons.

5 (b) "Commission" means the civil rights commission created under
 6 section 4 of this chapter.

7 (c) "Director" means the director of the civil rights commission.

8 (d) "Deputy director" means the deputy director of the civil rights
 9 commission.

10 (e) "Commission attorney" means the deputy attorney general, such
 11 assistants of the attorney general as may be assigned to the
 12 commission, or such other attorney as may be engaged by the
 13 commission.

14 (f) "Consent agreement" means a formal agreement entered into in
 15 lieu of adjudication.

16 (g) "Affirmative action" means those acts that the commission
 17 determines necessary to assure compliance with the Indiana civil rights
 18 law.

19 (h) "Employer" means the state or any political or civil subdivision
 20 thereof and any person employing six (6) or more persons within the
 21 state, except that the term "employer" does not include:

22 (1) any nonprofit corporation or association organized exclusively
 23 for fraternal or religious purposes;

24 (2) any school, educational, or charitable religious institution
 25 owned or conducted by or affiliated with a church or religious
 26 institution; or

27 (3) any exclusively social club, corporation, or association that is
 28 not organized for profit.

29 (i) "Employee" means any person employed by another for wages or
 30 salary. However, the term does not include any individual employed:

31 (1) by his parents, spouse, or child; or

32 (2) in the domestic service of any person.

33 (j) "Labor organization" means any organization that exists for the
 34 purpose in whole or in part of collective bargaining or of dealing with
 35 employers concerning grievances, terms, or conditions of employment
 36 or for other mutual aid or protection in relation to employment.

37 (k) "Employment agency" means any person undertaking with or
 38 without compensation to procure, recruit, refer, or place employees.

39 (l) "Discriminatory practice" means:

40 (1) the exclusion of a person from equal opportunities because of
 41 race, religion, color, sex, **sexual orientation**, disability, national
 42 origin, or ancestry;

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(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, **sexual orientation**, disability, national origin, or ancestry;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, **sexual orientation**, disability, national origin, or ancestry; or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4).

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on his own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person other than himself or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

(1) the full name and address of the complainant;

(2) the name and address of the respondent against whom the complaint is made;

(3) the alleged discriminatory practice and a statement of particulars thereof;

(4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of

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1 discrimination are alleged to have occurred; and

2 (5) a statement as to any other action, civil or criminal, instituted
3 in any other form based upon the same grievance alleged in the
4 complaint, together with a statement as to the status or disposition
5 of the other action.

6 No complaint shall be valid unless filed within one hundred eighty
7 (180) days from the date of the occurrence of the alleged
8 discriminatory practice.

9 (q) "Sex" as it applies to segregation or separation in this chapter
10 applies to all types of employment, education, public accommodations,
11 and housing. However:

12 (1) it shall not be a discriminatory practice to maintain separate
13 rest rooms;

14 (2) it shall not be an unlawful employment practice for an
15 employer to hire and employ employees, for an employment
16 agency to classify or refer for employment any individual, for a
17 labor organization to classify its membership or to classify or refer
18 for employment any individual, or for an employer, labor
19 organization, or joint labor management committee controlling
20 apprenticeship or other training or retraining programs to admit
21 or employ any other individual in any program on the basis of sex
22 in those certain instances where sex is a bona fide occupational
23 qualification reasonably necessary to the normal operation of that
24 particular business or enterprise; and

25 (3) it shall not be a discriminatory practice for a private or
26 religious educational institution to continue to maintain and
27 enforce a policy of admitting students of one (1) sex only.

28 (r) "Disabled" or "disability" means the physical or mental condition
29 of a person that constitutes a substantial disability. In reference to
30 employment, under this chapter, "disabled or disability" also means the
31 physical or mental condition of a person that constitutes a substantial
32 disability unrelated to the person's ability to engage in a particular
33 occupation.

34 SECTION 20. IC 22-9-1-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The commission
36 shall establish and maintain a permanent office in the city of
37 Indianapolis.

38 (b) The commission may appoint such attorneys and other
39 employees and agents as it considers necessary, fix their compensation
40 within the limitation provided by law, and prescribe their duties. All
41 these employees, with the exception of the executive director and
42 attorneys, shall be appointed by the commission from eligible lists to

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1 be promulgated by the department of personnel as the result of a
 2 competitive examination held under IC 4-15-2 and rules of the
 3 department and on the basis of training, practical experience,
 4 education, and character. However, special consideration and due
 5 weight shall be given to the practical experience and training that a
 6 person may have for the particular position involved regardless of his
 7 academic training. Promotions, suspensions, and removal of persons
 8 appointed from such lists shall be in accordance with IC 4-15-2. The
 9 reasonable and necessary traveling expenses of each employee of the
 10 commission while actually engaged in the performance of duties in
 11 behalf of the commission shall be paid in accordance with the state
 12 travel policies and procedures established by the Indiana department
 13 of administration and approved by the budget agency.

14 (c) Except as it concerns judicial review, the commission may adopt
 15 rules under IC 4-22-2 to implement this chapter.

16 (d) The commission shall formulate policies to effectuate the
 17 purposes of this chapter and make recommendations to agencies and
 18 officers of the state or local subdivisions thereof to effectuate such
 19 policies. The several departments, commissions, divisions, authorities,
 20 boards, bureaus, agencies, and officers of the state or any political
 21 subdivision or agency thereof shall furnish the commission, upon its
 22 request, all records, papers, and information in their possession relating
 23 to any matter before the commission.

24 (e) The commission shall receive and investigate complaints
 25 alleging discriminatory practices. The commission shall not hold
 26 hearings in the absence of a complaint. All investigations of complaints
 27 shall be conducted by staff members of the civil rights commission or
 28 their agents.

29 (f) The commission may create such advisory agencies and
 30 conciliation councils, local or statewide, as will aid in effectuating the
 31 purposes of this chapter. The commission may itself, or it may
 32 empower these agencies and councils to:

- 33 (1) study the problems of discrimination in the areas covered by
 34 section 2 of this chapter when based on race, religion, color, sex,
 35 **sexual orientation**, handicap, national origin, or ancestry; and
- 36 (2) foster through community effort, or otherwise, good will
 37 among the groups and elements of the population of the state.

38 These agencies and councils may make recommendation to the
 39 commission for the development of policies and procedures in general.
 40 Advisory agencies and conciliation councils created by the commission
 41 shall be composed of representative citizens serving without pay, but
 42 with reimbursement for reasonable and necessary actual expenses.

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(g) The commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, **sexual orientation**, handicap, national origin, or ancestry.

(h) The commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because he filed a complaint, testified in any hearing before this commission, or in any way assisted the commission in any matter under its investigation.

(i) The commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this section shall constitute a contempt. All hearings shall be held within Indiana at a location determined by the commission. A citation of contempt may be issued upon application by the commission to the circuit or superior court in the county in which the hearing is held or in which the witness resides or transacts business.

(j) The commission may appoint administrative law judges other than commissioners, when an appointment is deemed necessary by a majority of the commission. The administrative law judges shall be members in good standing before the bar of Indiana and shall be appointed by the chairman of the commission. An administrative law judge appointed under this subsection shall have the same powers and duties as a commissioner sitting as an administrative law judge. However, the administrative law judge may not issue subpoenas.

(k) The commission shall state its findings of fact after a hearing and, if the commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring the person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power:

(A) to restore complainant's losses incurred as a result of discriminatory treatment, as the commission may deem necessary to assure justice; however, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions;

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(B) to require the posting of notice setting forth the public policy of Indiana concerning civil rights and respondent's compliance with the policy in places of public accommodations;

(C) to require proof of compliance to be filed by respondent at periodic intervals; and

(D) to require a person who has been found to be in violation of this chapter and who is licensed by a state agency authorized to grant a license to show cause to the licensing agency why his license should not be revoked or suspended.

(l) Judicial review of a cease and desist order or other affirmative action as referred to in this chapter may be obtained under IC 22-9-8. If no proceeding to obtain judicial review is instituted within thirty (30) days from receipt of notice by a person that an order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of the order in circuit or superior court upon showing that the person is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(m) If, upon all the evidence, the commission shall find that a person has not engaged in any unlawful practice or violation of this chapter, the commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the complaint as to the person.

(n) The commission may furnish technical assistance requested by persons subject to this chapter to further compliance with this chapter or with an order issued thereunder.

(o) The commission shall promote the creation of local civil rights agencies to cooperate with individuals, neighborhood associations, and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.

(p) The commission may reduce the terms of conciliation agreed to by the parties to writing (to be called a consent agreement) that the parties and a majority of the commissioners shall sign. When signed, the consent agreement shall have the same effect as a cease and desist order issued under subsection (k). If the commission determines that a party to the consent agreement is not complying with it, the commission may obtain enforcement of the consent agreement in a circuit or superior court upon showing that the party is not complying with the consent agreement and the party is subject to the commission's jurisdiction and resides or transacts business within the county in

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1 which the petition for enforcement is brought.

2 (q) In lieu of investigating a complaint and holding a hearing under
3 this section, the commission may issue an order based on findings and
4 determinations by the federal Department of Housing and Urban
5 Development or the federal Equal Employment Opportunity
6 Commission concerning a complaint that has been filed with one (1) of
7 these federal agencies and with the commission. The commission shall
8 adopt by rule standards under which the commission may issue such an
9 order.

10 (r) Upon notice that a complaint is the subject of an action in a
11 federal court, the commission shall immediately cease investigation of
12 the complaint and may not conduct hearings or issue findings of fact or
13 orders concerning that complaint.

14 SECTION 21. IC 22-9-1-10 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Every contract to
16 which the state or any of its political or civil subdivisions is a party,
17 including franchises granted to public utilities, shall contain a provision
18 requiring the contractor and his subcontractors not to discriminate
19 against any employee or applicant for employment to be employed in
20 the performance of such contract, with respect to his hire, tenure,
21 terms, conditions or privileges of employment or any matter directly or
22 indirectly related to employment, because of his race, religion, color,
23 sex, **sexual orientation**, disability, national origin, or ancestry. Breach
24 of this covenant may be regarded as a material breach of the contract.

25 SECTION 22. IC 22-9-1-11 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. In addition to its
27 power to investigate the discriminatory practices referred to in this
28 chapter, the commission may receive written complaints of violation of
29 this chapter or other discriminatory practices based upon race, religion,
30 color, sex, **sexual orientation**, national origin, or ancestry and to
31 investigate such complaints as it deems meritorious, or to conduct such
32 investigation in the absence of complaints whenever it deems it in the
33 public interest. It may transmit to the general assembly its
34 recommendations for legislation designed to aid in the removing of
35 such discrimination.

36 SECTION 23. IC 22-9-2-11 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. Nothing contained
38 herein shall be deemed to repeal any of the provisions of any law of
39 this state relating to discrimination because of age, race or color,
40 religion, **sexual orientation**, or country of ancestral origin. Nothing
41 herein shall be deemed to limit, restrict or affect the freedom of any
42 employer in regard to (a) fixing compulsory retirement requirements

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1 for any class of employees at an age or ages less than seventy (70)
 2 years; (b) fixing eligibility requirements for participation in, or
 3 enjoyment by employees of, benefits under any annuity plan or pension
 4 or retirement plan on the basis that any employee may be excluded
 5 from eligibility therefor who, at the time he would otherwise become
 6 eligible for such benefits, is older than the age fixed in such eligibility
 7 requirements; or (c) keeping age records for any such purposes.

8 SECTION 24. IC 22-9.5-3-5 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. This article does not
 10 prohibit a person engaged in the business of furnishing appraisals of
 11 real property from taking into consideration factors other than race,
 12 color, religion, sex, **sexual orientation**, disability, familial status, or
 13 national origin.

14 SECTION 25. IC 22-9.5-5-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person may not
 16 refuse to sell or to rent after the making of a bona fide offer, refuse to
 17 negotiate for the sale or rental of, or otherwise make unavailable or
 18 deny a dwelling to any person because of race, color, religion, sex,
 19 **sexual orientation**, familial status, disability, or national origin.

20 (b) A person may not discriminate against any person in the terms,
 21 conditions, or privileges of sale or rental of a dwelling, or in providing
 22 services or facilities in connection with the sale or rental of a dwelling,
 23 because of race, color, religion, sex, **sexual orientation**, familial status,
 24 disability, or national origin.

25 (c) This section does not prohibit discrimination against a person
 26 because the person has been convicted under federal law or the law of
 27 any state of the illegal manufacture or distribution of a controlled
 28 substance.

29 SECTION 26. IC 22-9.5-5-2 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A person may not
 31 make, print, or publish or cause to be made, printed, or published any
 32 notice, statement, or advertisement with respect to the sale or rental of
 33 a dwelling that indicates any preference, limitation, or discrimination
 34 based on race, color, religion, sex, **sexual orientation**, disability,
 35 familial status, or national origin, or an intention to make such a
 36 preference, limitation, or discrimination.

37 SECTION 27. IC 22-9.5-5-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A person may not
 39 represent to any person because of race, color, religion, sex, **sexual**
 40 **orientation**, disability, familial status, or national origin that a dwelling
 41 is not available for inspection for sale or rental when the dwelling is
 42 available for inspection.

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SECTION 28. IC 22-9.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin.

SECTION 29. IC 22-9.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As used in this section, "residential real estate related transaction" means the following:

(1) Making or purchasing loans or providing other financial assistance:

(A) to purchase, construct, improve, repair, or maintain a dwelling; or

(B) to secure residential real estate.

(2) Selling, brokering, or appraising residential real property.

(b) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin.

SECTION 30. IC 22-9.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin.

SECTION 31. IC 22-9.5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person commits a Class A misdemeanor if the person, whether or not acting under color of law, by force or threat of force intentionally intimidates or interferes with or attempts to intimidate or interfere with a person:

(1) because of the person's race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin and because the person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in a service, organization, or facility

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relating to the business of selling or renting dwellings; or
 (2) because the person is or has been, or to intimidate the person
 from:

(A) participating, without discrimination because of race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1);

(B) affording another person opportunity or protection to participate in an activity, a service, an organization, or a facility described in subdivision (1); or

(C) lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, sex, **sexual orientation**, disability, familial status, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1).

SECTION 32. IC 27-7-12-7, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Termination of property insurance coverage by an insurer is prohibited if the termination is based on any of the following:

(1) Upon the race, religion, nationality, ethnic group, age, sex, **sexual orientation**, or marital status of the applicant or named insured.

(2) Solely upon the lawful occupation or profession of the applicant or named insured. However, this subdivision does not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions.

(3) Upon the age or location of the residence of the applicant or named insured, unless that decision is for a business purpose that is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title.

(4) Upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.

(5) Upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

SECTION 33. IC 33-4-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person shall be excused from acting as a juror if the person:

(1) is over sixty-five (65) years of age;

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(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-2-1-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-2-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

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(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, **sexual orientation**, national origin, or economic status.

SECTION 34. IC 33-4-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A citizen shall not be excluded from jury service in counties affected by this chapter on account of race, color, religion, sex, **sexual orientation**, national origin, or economic status.

SECTION 35. IC 35-46-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person who knowingly or intentionally denies to another person, because of color, creed, disability, national origin, race, religion, or sex, **sexual orientation**, the full and equal use of the services, facilities, or goods in:

(1) an establishment that caters or offers its services, facilities, or goods to the general public; or

(2) a housing project owned or subsidized by a governmental entity;

commits a civil rights violation, a Class B misdemeanor.

SECTION 36. IC 35-46-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A public servant having the duty to select or summon persons for grand jury or trial jury service who knowingly or intentionally fails to select or summon a person because of color, creed, disability, national origin, race, religion, **sexual orientation**, or sex commits discrimination in jury selection, a Class A misdemeanor.

SECTION 37. IC 36-9-4-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. (a) The board of

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1 directors of a public transportation corporation may appoint or employ
2 a general manager, accountants, attorneys, traffic engineers, drivers,
3 clerks, secretaries, guards, laborers, and other employees, and may
4 prescribe and define their duties, regulate their compensation,
5 discharge them, and appoint or employ their successors. Employees
6 shall be selected without regard to race, religion, **sexual orientation**,
7 or any personal affiliation. The board shall select the general manager
8 on the basis of his fitness for the position, taking into account his
9 executive ability and his knowledge of and experience in the field of
10 mass public transportation.

11 (b) The board shall bargain collectively and enter into written
12 contracts with authorized labor organizations representing employees
13 other than executive, administrative, or professional personnel. These
14 contracts may provide for the binding arbitration of disputes, wages,
15 salaries, hours, working conditions, health and welfare, insurance,
16 vacations, holidays, sick leave, seniority, pensions, retirement, and
17 other benefits.

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